

**COORDINATED ISSUE
DATA PROCESSING INDUSTRY
WAGES OF TECHNICAL WRITERS AND THE R & E CREDIT**

ISSUE

Whether the wages paid to technical writers, editors, illustrators and others who assist in the preparation of user manuals (hereinafter referred to as writers) constitute a "qualified research expense" for purposes of computing the research credit under section 41.

CONCLUSION

Wages paid to writers who assist in the preparation of user manuals do not constitute a "qualified research expense" for purposes of computing the research credit under section 41.

FACTS

Taxpayers in the data processing industry employ writers to prepare and update documents that are used by the sales division to explain to its customers, and other interested parties, how to operate the equipment and software they sell or lease. The writers are expected to prepare clear, accurate, well organized documentation in accordance with department standards on products developed by the company. The ultimate goal of this documentation is to produce a user manual to be associated with the product to instruct the customer, or other interested parties, in the operation of the product. Examples of tasks performed by these individuals in accordance with their job descriptions are:

1. interviewing engineers to obtain information about projects;
2. developing outlines in accordance with department standards;
3. helping plan revisions of existing documents;
4. making revisions according to plans;
5. defining the appropriate audience, and targeting documentation to that audience;
6. providing preliminary versions of artwork;

7. working with the editorial and production staffs;
8. working with the other writers to establish the scope of and the schedules for projects;
9. maintaining familiarity with and using hardware, software and human resources in the department;
10. assisting other writers as requested by the lead writer;
11. assisting in the training of new hires;
12. interviewing job candidates; and
13. participating in setting department standards and procedures.

LAW AND ANALYSIS

The Economic Recovery Tax Act of 1981 provided a tax credit for certain categories of "in-house research expenses" paid or incurred by a taxpayer in the process of conducting "qualified research." The credit provisions first appeared as section 44F. The Deficit Reduction Act of 1984 redesignated section 44F as section 30. The Tax Reform Act of 1986 amended the research credit provisions and redesignated section 30 as section 41.

For purposes of the credit "qualified research" for taxable years beginning before January 1, 1986, with some exceptions, has the same meaning as the term "research or experimental" has under section 174. The term research or experimental expenditures as used in section 174 means expenditures incurred in connection with the taxpayer's trade or business which represent research and development costs in the experimental or laboratory sense. The term includes generally all such experimental or laboratory costs incident to the development or improvement of an experimental or pilot model, a plant process, a product, a formula, an invention, or similar property.

For taxable years beginning after December 31, 1985, "qualified research" means research activities undertaken for the purpose of discovering information that is technological in nature and intended to be useful in the development of a new or improved business component of the taxpayer. See Section 41(d). According to the Conference Committee Report for the Tax Reform Act of 1986, activities are technological in nature if they fundamentally rely on principals of the physical or biological sciences, engineering or computer science.

Section 41(b)(1) provides that qualified research expenses include "in-house research

expenses" and "contract research expenses." Generally, in-house research expenses include only wages paid or incurred to an employee for "qualified services," and amounts paid for supplies used in the conduct of qualified research. "Qualified services" include the actual conduct of qualified research and direct supervision or direct support of research activities which constitute qualified research.

Treas. Reg. § 1.41-2(c)(1) states that "engaging in qualified research" means the actual conduct of qualified research (as in the case of a scientist conducting laboratory experiments). Section 1.41-2(c)(2) provides that for "direct supervision" to constitute qualified services it must be immediate supervision of qualified research (as in the case of a research scientist who directly supervises laboratory experiments, but who does not actually perform experiments). Section 1.41-2(c)(3) provides that "direct support" of qualified research means services in direct support of persons engaging in the actual conduct of qualified research or support of persons who are directly supervising persons engaging in the actual conduct of qualified research.

A writer is the key link between the engineers who design, develop and build a product and the marketing people who are responsible for distributing and selling the finished product. It is the writer who interviews the engineers to understand the concept of the product and prepares the manuals and other documentation that are necessary to market the product. Writers are not responsible for developing a new product, service, process, or technique. In fact, for the most part, the research or experimental work related to taxpayer's products has been completed before the wage expense of the writers related to the preparation of manuals has been incurred. In short, writers do not discover technological information. They restate previously discovered technological information and incorporate this developed information into a product that is accessible to the lay user.

None of the tasks provided in the job descriptions of the writers related to the preparation of manuals is a task that would qualify as qualified research under section 1.41-2(c). The manuals prepared by the writers do not require the application of any natural, physical, or laboratory sciences. Their work does not result in any technological breakthrough. The writers' jobs do not give the writers any supervisory authority over the engineers, etc., engaged in qualified research. Therefore, the writers' services do not constitute direct supervision. Because the writers do not assist the engineers, etc., in their research activities, they are not considered to be directly supporting those employees engaged in qualified research.

The primary function of the writer is to assist in the preparing of manuals explaining the operation of various hardware and software products. These manuals are not used in the conduct of qualified research, but are used in marketing the products, and are enclosed with the finished product for use by customers. Because the services performed by writers do not constitute qualified services within the meaning of section 41(b)(2)(B), the wages paid to them do not qualify as qualified research expenses.